

7 FAM 1760

RUNAWAYS, ABANDONED CHILDREN, AND OTHER UNACCOMPANIED MINORS

(CT:CON-407; 06-29-2012)
(Office of Origin: CA/OCS/L)

7 FAM 1761 INTRODUCTION

7 FAM 1761.1 Summary

(CT:CON-102; 02-27-2005)

- a. This subchapter addresses the problems of U.S. citizen/national children present in the consular district without parents, guardians or other persons responsible for their welfare. Consular officers are confronted with these cases under a variety of circumstances, including, but not limited to:
 - (1) Runaways – usually teens running away from home, often with a boyfriend or girlfriend who may be minor or an adult;
 - (2) Children abandoned in a foreign country by parents;
 - (3) Children left alone in a foreign country as a result of the arrest or death of a parent; and
 - (4) Children lured to a foreign country through the Internet by sexual predators.
- b. The Department's position is that a U.S. citizen/national minor who is found in a foreign country without a parent or guardian generally should be returned to the United States, barring extenuating circumstances such as an extended family or appropriate safe haven organization in the host country. See the Digest of U.S. Practice in International Law, 2000, Declaration of April 6, 2000.
- c. In the case of a runaway minor in a foreign country, consular officers cannot compel the return of the minor to the United States, but we do use of skills to facilitate a solution. We can and do work with local authorities in foreign countries to attempt to ensure the protection of U.S. citizen/national minors abroad. For young children, it is usually a

relatively simple matter of coordinating with foreign authorities, family in the United States, and our colleagues at the U.S. Department of Health and Human Services (HHS/ACF/ORR), International Social Service (ISS/USA) (HHS's contractor), and appropriate officials in U.S. states to arrange for repatriation and resettlement of the U.S. citizen/national minor. For runaway teens that do not want to come home, particularly for teens over age 16, the level of assistance available from the foreign authorities varies from country to country. For victims of child abuse, exploitation or other crimes, we also coordinate with state child advocacy centers and our colleagues in the U.S. Department of Justice Office for Victims of Crime, and state victims of crime programs. See 7 FAM 1730 Child Exploitation, 7 FAM 1720 Child Abuse and Neglect and 7 FAM 1900 Crime Victim Assistance.

7 FAM 1761.2 Authorities

(CT:CON-102; 02-27-2005)

Consular authority to assist in these cases is derived from a variety of treaties, laws and regulations.

(1) **TREATIES**

- (a) Vienna Convention on Consular Relations (VCCR). Article 5(h) and of the VCCR provides that consular functions include protection of the interests of minors of the sending State.

Article 5(h) Vienna Convention on Consular Relations

Consular functions include ...

“(h) safeguarding, within the limits imposed by the laws and regulations of the receiving State, the **interests of minors** and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons.”

Article 37 of the VCCR concerns host country responsibilities in the event cases of guardianship or trusteeship.

Article 37 VCCR

“If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty:

(b) to inform the competent consular post without delay of any case where the appointment of a guardian or trustee appears to be in the interests of a minor or other person lacking full capacity who is a national of the sending State. The giving of this information shall, however, be without prejudice to the operation of the laws and regulations of the receiving State concerning such appointments.”

(b) Other International Agreements Related to Protection of Minors.

The United States is **not** a party to other treaties and international agreements related to protection of minors in this context (but see 7 FAM 1710 and 7 FAM 1790 regarding the Hague Abduction and Adoption treaties.). Nevertheless, it may be useful for posts to be aware that these other regimes exist as they reflect efforts of other countries to grapple with these issues.

- The European Convention on the Repatriation of Minors, CETS No. 071 (1970). While the United States is not a party to this agreement, it is an interesting reference. The agreement has been signed by nine countries, and is in force in Italy and Turkey. The explanatory report for the Convention states that various European countries have long standing bilateral arrangements for “the transfer of a minor who had removed himself from the authority of a parent or guardian”. Belgium concluded bilateral agreements on this subject with the Netherlands, France, Luxembourg, and Italy before the Second World War.
- The Hague Convention of October 26, 1960 on the Power or Authorities and the Law Applicable to the Protection of Infants deals with measures which create a situation of a certain duration such as the appointment of a guardian, the placement in family/foster care, etc.
- The Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement, and Co-operation In Respect of Parental Responsibility and Measures for the Protection of Children of 1996. The explanatory report for the Convention (Sub-paragraph i, 35) states “Behavior which is deviant, but which is not made criminal under the penal law, such as running away, refusal to attend school or even belonging to a gang, reveal a state of crisis within the child and ought incontestably to be covered by the Convention.”

(2) **Laws and Regulations.**

- (a) 22 CFR 71.1 Protection of Americans Abroad;
- (b) 22 CFR 71.6 Services for Distressed Americans; and
- (c) 22 U.S.C. 1731 Protection to Naturalized Citizens Abroad.

7 FAM 1762 CHILDREN AT RISK

7 FAM 1762.1 Runaways And “Throwaways”

(CT:CON-102; 02-27-2005)

- a. Runaways are children who leave home voluntarily without the knowledge or permission of their parents or guardians and who stay away, at least, overnight. “Throwaways”, are children who do not leave home voluntarily, but instead are abandoned; are forced from their homes by parents or guardians, and not allowed to return; or come and go, totally unsupervised. Runaways can be distinguished from throwaways in theory, but distinguishing between them in practice is very difficult because many episodes of both result from some sort of family conflict.
- b. Professionals who work with runaway, throwaway, and homeless youth have long known that many of these young people leave home to escape abusive or otherwise destructive family situations or are told to leave by parents or caretakers. Once on the street, young people are at high risk of being physically or sexually victimized, of self-medicating with drugs or alcohol to reduce emotional pain, of attempting suicide, and of engaging in delinquent acts or “survival” sex to meet their needs for food, shelter, and clothing. There can be a strong link between family circumstances, especially familial substance use, and the high-risk behaviors of runaway, throwaway, and homeless young people, especially substance abuse and suicide. In turn, substance-abusing runaway, throwaway, and homeless young people are found by HHS studies to be more likely to experience threats to their well being while on the street, such as physical victimization and sexual exploitation. The incidence of international runaways is increasing. Once primarily an issue at our border posts in Canada and Mexico, international runaways are traveling further afield, for a number of reasons:
 - (1) The increasing number of international marriages, particularly those ending in divorce or separation;
 - (2) Availability of inexpensive commercial air transportation;

- (3) The growing number of children with overseas travel experience and passports;
- (4) The increasing availability of funds to minors, particularly the growing practice of issuing credit and debit cards to teens; and
- (5) The use of the Internet by sexual predators. See 7 FAM 1730 Child Exploitation.

7 FAM 1762.2 Abandoned And Otherwise Unaccompanied Minors

(CT:CON-102; 02-27-2005)

Consular officers also see a surprising number of cases of abandoned and otherwise unaccompanied minors. These are not teenagers, necessarily, but can be very young children who find themselves alone in a foreign country. They may come to your attention in a variety of ways. You may receive reports from neighbors that children seem to be alone in a household with no adult supervision. You may learn from local police that children have been taken into temporary custody of local social services. Children may even contact you directly. If the parent(s) are not in evidence and there is no way to determine if or when the parent may be returning, or if the parent has died or is under arrest, the solution may be to send the child/children to the United States to the care of closest living relatives. CA/OCS/ACS will work with HHS/ACF/ORR and its contractor, International Social Services (ISS-USA) to determine that the relative's home is appropriate, including home studies if necessary, and ensure that local social services monitor the child's welfare if necessary. If no family members can be identified, HHS and ISS will arrange for the child/children to be cared for by local social services. This can take time to arrange. See 7 FAM 300 for guidance about repatriation. Even if the family can pay for the cost of the travel of the child and escorts, CA/OCS/ACS will coordinate with ISS to ensure appropriate reception and resettlement. This is important to ensure that the child does not disappear between connecting flights. Our Crime Victim Assistance program can also facilitate help from child advocacy centers, as appropriate. See 7 FAM 1900.

7 FAM 1763 ROLE OF CONSULAR OFFICERS

(CT:CON-102; 02-27-2005)

The Department, through CA/OCS and the posts abroad, should play an active and involved role in locating U.S. citizen/national runaway, abandoned

or otherwise unaccompanied minors abroad and assisting them to return to their families or other appropriate safe havens. Our responsibilities as consular officers in this area include:

- (1) Locating the minor;
- (2) Ensuring that host government officials fulfill their responsibilities to protect minors in their country;
- (3) Protecting the child's welfare in light the reasons for the runaway;
- (4) Assisting the child's return home or to an appropriate alternative such as a social services or child protection agency;
- (5) If the family is residing abroad, consular assistance can also be provided to reunite the family;
- (6) Providing appropriate repatriation and resettlement assistance (see 7 FAM 300); and
- (7) Coordinating with the host government.

7 FAM 1764 DEALING WITH PARENT(S) OF A RUNAWAY

(CT:CON-102; 02-27-2005)

Some cases involving international runaways will be brought to posts' attention by CA/OCS/ACS, others when a parent contacts a post directly. You should deal with these callers professionally and sympathetically, making it clear that we take the issue very seriously, and will do everything possible to help locate the child. At the same time, however, keep in mind that a child's relationship with the parent is often the root cause of a runaway case, and a certain amount of circumspection is in order.

7 FAM 1764.1 Collect Information

a. Elicit as much information as possible from the caller, including:

- (1) Name, date and place of birth of the child;
- (2) Time and circumstances of disappearance;
- (3) Travel documents likely in the child's possession;

- (4) Reason parent believes child ran away;
- (5) Reason parent believes the child might have fled the United States;
- (6) Child's access to funds; and
- (7) Names and contact points for family members or friends in host country.

See Bureau of Consular Affairs Internet Home Page ...

Consular Welfare and Whereabouts Services for U.S. Citizens Abroad

7 FAM 1764.2 Guiding The Parents

(CT:CON-102; 02-27-2005)

- a. Encourage them to do as many of the following as possible and as appropriate to the case.
 - (1) **Notify Police:** File a missing persons report, keep a record of all details of the investigation, and stay in touch with local authorities.
 - (2) **NCMEC:** Contact the National Center for Missing and Exploited Children (NCMEC) at 800-THE-LOST or on line.
 - (3) **CA/OCS:** Contact the Department if it appears the child may be abroad or intending to go abroad or may be applying for a passport.
- b. **Encourage the Parents to Check Household Records:** Advise parents to look for possible clues by searching for:
 - (1) **Missing credit cards:** or recent credit card records. Local police or FBI can often help in dealing with credit card companies;
 - (2) **Telephone and pager bills:** Advise parents to look for international calls, calls to airlines, contacts with friends around the time of disappearance, etc.;
 - (3) **Messages:** Caller ID and answering service messages;
 - (4) **E-mail activity:** If parents cannot access the child's e-mail, they should contact local police or private technician for assistance in gaining access; and
 - (5) **Bank Statements:** Most parents are co-holders of their children's bank accounts, and can review accounts for recent unusual activity.

c. **Parents May Wish to Consider Contacting Others:**

- (1) Contact the child's friends, let them know they're concerned, ask for their support and help;
- (2) Contact local media if there is reason to believe child is still in the area;
- (3) Also Encourage the Parents to Visit the Child's School: Talk with administrators, teachers and counselors;
- (4) Review performance, grades and disciplinary records for possible causes; and
- (5) Request administrators help in meeting classmates and asking for assistance.

d. **Privacy Act Waiver:** Encourage the parent(s) to sign a written Privacy Act waiver authorizing the Department to release information about the child to all relevant entities (foreign and domestic, governmental and non-governmental) as necessary to assist with locating the child. The absence of a Privacy Act waiver may limit the ability of the Department to work with other entities to locate the missing child.

e. **Maintain Contact With Families:** Posts and/or CA/OCS/ACS should maintain contact with the parent(s) on a regular basis, even if there is no new information. If possible, assign a single officer as their point of contact, adopting the "caseworker" approach. Develop a regular reporting schedule, and establish primary and back-up contacts.

f. See 7 FAM 1769 for additional resources.

7 FAM 1765 DEALING WITH THE HOST GOVERNMENT

(CT:CON-102; 02-27-2005)

a. Assuming a Privacy Act waiver was obtained, your first step should usually be to contact local police and child protection authorities, and work closely with them in their efforts to locate the child. If there is evidence that the child may be in immediate danger, the routine use and/or "compelling circumstances" exception to the Privacy Act may justify release of information to local authorities. Consult CA/OCS for guidance on a case-by-case basis.

- b. Often local law will mandate that the parents themselves must file a missing persons report in the case of a minor. Facilitate the reporting of a runaway by parents to local authorities, particularly if parent(s) are in the U.S. or do not speak the local language.
- c. Assuming a Privacy Act waiver was obtained, enlist the assistance of local child protective services or other authorities to facilitate the recovery of the minor U.S. citizen/national. Consult CA/OCS for Privacy Act guidance on a case-by-case basis.
- d. Make it clear to the host government that the protection of the U.S. citizen/national minor is a high priority to the United States Government.
- e. In some countries, the willingness of police officials to get involved may depend on the age of the minor. If the minor is over 15, authorities in some countries may not be prepared to take action unless there is evidence of abduction or violence.
- f. If it is clear that the minor entered the foreign country, the post should also reiterate to all appropriate host government agencies the responsibility of the host country to protect persons in that country, most especially children.
- g. Find out if the host country has any specialized programs dealing with runaways, including any web-based material. Share this information with CA/OCS.

7 FAM 1766 LOCATING A RUNAWAY

(CT:CON-102; 02-27-2005)

- a. Assuming a Privacy Act waiver has been signed by the parent(s):
 - (1) Work closely with local police and child protection authorities, and monitor their efforts to find the child;
 - (2) Where there is no effective local police authority or child protective services entity in place, you must be particularly creative in your efforts to locate and recover the minor;
 - (3) Utilize the information provided by the parent(s) and pass it along to the host country authorities; and
 - (4) Contact resources beyond the clues provided by the parents and U.S. law enforcement authorities that might be useful to you, including:

- b. If a Privacy Act waiver was not signed by the parent(s), some of the foregoing steps may still be taken. In such cases, consult with CA/OCS before proceeding further.
- c. See 7 FAM 100 Welfare and Whereabouts.

7 FAM 1767 INTERVIEWING RUNAWAYS

7 FAM 1767.1 Reasons For Interview

(CT:CON-102; 02-27-2005)

- a. Once you locate the runaway minor, it is important that you interview him or her in order to determine:
 - (1) Possible need for medical attention;
 - (2) The minor's reason for running away;
 - (3) The existence of any alleged abuse, and the identity of the alleged abuser;
 - (4) Whether or not the child now wants to return home. This may not be the child's decision to make, but it is important to know his or her state of mind. If the minor does not wish to return, there may be further danger that he or she will try to evade local authorities in the host country, or disappear while in transit en route to the United States. This is where it will be important to assess whether an escort and/or reception at point of entry to the United States is appropriate;
 - (5) Names and contact points for other relatives who might serve as alternative safe haven; and
 - (6) Whether the child wishes information about their welfare and whereabouts released to parents and other concerned individuals. If so, have the child execute a Privacy Act waiver. If the child does not want the information released, consult with CA/OCS.

7 FAM 1767.2 Runaways And The Privacy Act

(CT:CON-407; 06-29-2012)

The Privacy Act covers all U.S. citizens/nationals and Lawful Permanent Residents (LPR's), including minors. As a general matter, information about

a minor may be released to the minor's parent(s). Parents, however, do not have an absolute right to the information under the Privacy Act and the wishes of the minor may, in some cases, override those of the parent(s). Department approval is required before disclosure is made to the parent(s) in certain cases, such as where the minor has indicated that the information not be disclosed or where disclosure could jeopardize the safety and well-being of the child. Accordingly, you should obtain prior approval from **CA/OCS/L before** releasing any information regarding a runaway under the following circumstances:

- (1) There are signs of abuse, and reason to believe a parent or other household member is the abuser;
- (2) The minor indicates he or she does not want information released to the parent; or
- (3) There is credible concern for the minor's safety.

7 FAM 1768 RETURNING THE RUNAWAY

(CT:CON-102; 02-27-2005)

The minor may be recovered by local authorities, by the parent who traveled to the foreign country to find the minor, through the efforts of the consular officer, or a combination of efforts. Facilitating the minor's actual return to the U.S. generally involves a variety of issues.

7 FAM 1768.1 Travel Documents

(CT:CON-102; 02-27-2005)

Try to locate the passport or other document(s) the child used to leave the United States. If the child has a valid passport, amend it to show validity only for direct return to the United States, and limit the period of validity to one sufficient to accomplish the return. If the child's passport is not available, issue a new limited-validity passport, valid only for return to the United States. See 7 FAM 1300 regarding parental consent requirements for passport applications for minors under the age of 14. Give the passport to the escort, if there is one, or directly to the air carrier. If the child used another person's passport or other improper or fake documents, you should turn these over to the post Anti-Fraud Officer or RSO.

7 FAM 1768.2 Escorts

(CT:CON-102; 02-27-2005)

In most cases where the child is returning to family, post should encourage one or both parents to travel to post and escort the child back to the United States. If it is not possible for parents to travel to post for financial or other valid reasons, post should assist them in locating an escort if one is required. In those cases where an escort is not available or necessary, a consular officer should escort the child to the plane, and remain until the plane actually departs. Local authorities may also accompany. If circumstances warrant and there is a Privacy Act waiver, alert airline personnel to the child's situation as a runaway. Make certain that parent(s) or other reception authorities know exactly when the plane is due, and plan to meet it. You do not want the minor to disappear in transit.

7 FAM 1768.3 Travel Expenses

(CT:CON-102; 02-27-2005)

Generally, the family should be responsible for paying the child's travel expenses. The family may pre-pay a non-refundable, non-exchangeable airline ticket and/or send funds commercially or via OCS Trust (see 7 FAM 300). If personal funds are not available, the parent(s) may apply to post for a repatriation loan (see 7 FAM 380). In certain cases, CA/OCS will assist posts by contacting agencies that may provide funds for repatriation, including: NCMEC and the National Runaway Switchboard.

7 FAM 1768.4 Reception And Resettlement

(CT:CON-102; 02-27-2005)

You, CA/OCS, HHS, ISS, the airline, and any other involved parties should work closely to ensure the child comes home to a proper reception.

7 FAM 1768.4-1 Child Being Returned To Parent(s)

(CT:CON-102; 02-27-2005)

Once we jointly decide to return the child to his or her parent(s), (or legal guardians) CA/OCS will contact them in advance and provide them with information about support agencies and organizations and information on the Passport Alert Program to help prevent future attempts if this is a split family situation.

7 FAM 1768.4-2 Child Being Returned To Other Than Parent(s) Or Legal Guardian

(CT:CON-102; 02-27-2005)

In those cases where the child is not being returned to the parent(s), because of abuse or some other reason, CA/OCS will coordinate with HHS (through their contractor ISS) and state crime victim family advocacy centers as appropriate (see 7 FAM 1900). If there is any indication of child abuse or neglect CA/OCS will contact appropriate law enforcement officials.

7 FAM 1769 REFERENCE

(CT:CON-102; 02-27-2005)

See ...U.S. Government

U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention

- Runaway/Throwaway Children: National Estimates and Characteristics

U.S. Department of Health and Human Services, Administration for Children and Families

- The Runaway and Homeless Youth Program

U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA)

- Substance Use Among Youths Who Had Run Away From Home

U.S. Postal Inspection Service, Missing Persons Fraud Schemes

U.S. Citizenship and Immigration Services (USCIS), How Do I Report a Missing Person Suspected of Falling Victim to Dangers Along the Border

Other Sources of Information About Runaways

National Center for Missing and Exploited Children

- Just In Case: Guidelines In Case Your Child Might Someday Run Away

National Youth Violence Prevention Resource Center: Runaways

Child Welfare League of America: Life on the Run, Life on the Streets

National Runaway Switchboard

International

Canada – Kids Help Phone

Canada – Street Kids International

Revenue Canada Customs International Project Return